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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,477	01/18/2002	Thomas R. Borden	57434US002	6165

32692 7590 03/05/2007

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
HWU, DAVIS D	
ART UNIT	**PAPER NUMBER**
3752	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/05/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/05/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

Office Action Summary	Application No.	Applicant(s)	
	10/050,477	BORDEN ET AL.	
	Examiner	Art Unit	
	Davis D. Hwu	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22 and 26-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22 and 26-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/24/07,4/29/04,3/23/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 20, 22, 32-36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beggs et al.

Beggs et al. discloses a method of applying a two-component mixture comprising a two-component composition wherein a first part is provided in a first chamber and a second part is provided in a second chamber and wherein the first and second chambers have a total volume ranging from about 0.1 liters to about 10 liters, advancing the first part and second part into a mixing device forming a mixture and dispensing the mixture (column 4, lines 15-48). This method can also be used to apply a two-component marking composition since it has been held that a recitation with respect to the manner in which a claimed method is intended to be employed does not differentiate the claimed method from a prior art method satisfying the claimed limitations. Regarding claim 20, the use optical elements in the mixture of pavement marking compositions are well known in the art in order to provide reflective and more visibility to the compositions.

3. Claims 1-9, 11-22, and 26-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simmen in view of Beggs et al.

Simmen discloses an apparatus applying a two-component mixture comprising a two-component composition wherein a first part is provided in a first chamber and a second part is provided in a second chamber wherein the first and second chambers have a total volume. Simmen does not disclose the range of the total volume, however, Beggs et al. teaches a method of applying a two-component mixture comprising a two-component composition wherein a first part is provided in a first chamber and a second part is provided in a second chamber and wherein the first and second chambers have a total volume ranging from about 0.1 liters to about 10 liters, advancing the first part and second part into a mixing device forming a mixture and dispensing the mixture (column 4, lines 15-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Simmen by making the total volume of the chambers to range from 0.1 to 10 liters as taught by Beggs et al. to provide a required amount of composition. This apparatus can also be used to apply a two-component marking composition since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed method from a prior art method satisfying the claimed limitations. Regarding claim 7, using a cartridge with lined cardboard would have been a matter of design choice. The device can dispense the mixture as a mist depending on the materials used as recited in claim 16. Regarding claims 17 and 18, the width as recited would have been a matter of design choice since such a modification involves a mere change in the size of a component which is generally recognized as being within the level of ordinary skill in the art. Regarding claim 20, the

use optical elements in the mixture of pavement marking compositions are well known in the art in order to provide reflective and more visibility to the compositions. The use of a harness or a cart as recited in claims 30 and 31 are also matters of design choice depending a preferred means of transporting the device.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simmen in view of Beggs et al. as applied to claim 9 above, and further in view of Giannuzzi. Giannuzzi teaches a two component dispensing gun comprising removable collapsible tubes 20 and 21 being provided in first and second chambers 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Simmen and Beggs et al. by providing removable collapsible tubes in the chambers as taught by Giannuzzi in order to be able to quickly and easily replenish the composition.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis D. Hwu whose telephone number is 571-272-4904. The examiner can normally be reached on 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

DAVIS HWU
PRIMARY EXAMINER